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4 UNITED STATES DISTRICT COURT  
5 WESTERN DISTRICT OF WASHINGTON  
6 AT SEATTLE

7 BRANDON THOMAS ROBERTS,

8 Plaintiff,

9 v.

10 CITY OF BAINBRIDGE ISLAND;  
11 MATTHEW HAMNER, Chief of the  
12 Bainbridge Island Police Department;  
13 DALE JOHNSON; WELLPATH, LLC,  
14 f/k/a Correct Care Solutions, LLC;  
KITSAP COUNTY; MARK RUFENER;  
JOHN GESE; GARY SIMPSON; and  
JOHN AND JANE DOES 1-30,

Defendants.

C21-5165 TSZ

MINUTE ORDER

15 The following Minute Order is made by direction of the Court, the Honorable  
16 Thomas S. Zilly, United States District Judge:

17 (1) The motion to dismiss, docket no. 10, brought by defendants Kitsap  
18 County, Kitsap County Superintendent of Corrections Mark Rufener, Kitsap County  
Undersheriff John Gese, and Kitsap County Sheriff Gary Simpson (the “Kitsap  
Defendants”), is GRANTED in part and DENIED in part, as follows:

19 (a) With respect to plaintiff’s claims against the Kitsap Defendants,  
20 the motion to dismiss is granted, but without prejudice to plaintiff filing an  
amended complaint;<sup>1</sup>

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22 <sup>1</sup> The Kitsap Defendants’ contention that plaintiff somehow waived the opportunity to amend his  
23 pleading by not filing an amended complaint within 21 days after the Kitsap Defendants filed

1 (b) Plaintiff shall electronically file any amended complaint within  
2 twenty-one (21) days of the date of this Minute Order; and

3 (c) Any responsive pleading or motion shall be filed within the time  
4 period set forth in Federal Rule of Civil Procedure 15(a)(3).

5 (2) The Clerk is directed to send a copy of this Minute Order to all counsel of  
6 record.

7 Dated this 28th day of April, 2021.

8 William M. McCool  
9 Clerk

10 s/Gail Glass  
11 Deputy Clerk

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20 their motion to dismiss ignores Federal Rule of Civil Procedure 15(a)(2), which envisions that a  
21 pleading may be amended after the 21-day period upon consent of opposing parties or with leave  
22 of the Court, which is to be “freely” given “when justice so requires.” Moreover, the Court notes  
23 that, after the Kitsap Defendants filed their motion to dismiss, defendant Wellpath, LLC filed an  
answer, docket no. 13, thereby complicating for plaintiff the issue of whether to file an amended  
pleading or respond to the pending motion to dismiss.